

tigious vacancy. So that the vacancy, thus surveyed and included, becomes a part, and not an incident of the original tract; and it is no longer liable to be affected, or acquired by an incidental right of resurvey.

The holders of this land, who claimed by descent from Aaron Allford, held one parcel of it by a perfect, and the other by an imperfect legal title. And being thus seised and possessed, they distinctly and specially conveyed that parcel called Allford's Fancy, for which they had a perfect legal title, and no more, to Goodman, who conveyed the same tract precisely to the petitioner Hughlett. In which conveyances there is nothing, that in any manner shews it to have been the intention of Allford's heirs to convey the vacancy which had been included by the resurvey called Aaron's Addition. Hughlett is the purchaser of a part only of the land held by the heirs of Aaron Allford; and consequently, he can have no claim to a patent for that which they held by an imperfect legal title, which they did not convey; and which was, at the time they conveyed, in no manner to be considered as an incident to that which they actually sold. But was, in fact, a part of the whole number of acres they held, a portion only of which they sold according to the express description of it contained in their deed. The heirs of Aaron Allford alone, or those claiming under them, can have a right to complete the imperfect legal title to the ninety acres embraced by the resurvey called Aaron's Addition by a patent from the State. *Cunningham v. Browning*, 1 Bland, 314.

Whereupon it is adjudged and ordered, that the said petition of William Hughlett be, and the same is hereby dismissed with costs.

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* RANDALL v. HODGES.

CUSTODY OF WILLS.—VOUCHERS OF ACCOUNTS.

The original copy of a will of real or personal estate when proved and lodged with the register of wills cannot be taken from his possession, except under special circumstances. (a)

The documents and vouchers upon which an account has been passed by the Orphans' Court form no part of its records; and therefore, if they have been lodged with the register of wills he may be compelled, by a *subpoena duces tecum*, to produce them. (b)

THIS bill was filed on the 25th of August, 1818, by John Randall and wife against Thomas Hodges and others, the administrators of Charles D. Hodges, deceased, praying, that they might be

(a) See Rev. Code, Art. 49, sec. 32.

(b) Cited in *Mitchell v. Mitchell*, 3 Md. Ch. 75.